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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,182	06/15/2001	Jean-Paul Vidot	CELA:082	6962

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EXAMINER

LUONG, VINH

ART UNIT	PAPER NUMBER
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3682

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DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/868,182

Applicant(s)
VIDOT et al.

Examiner
Luong

Art Unit
3682



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/2/02
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above, claim(s) 4 and 12-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11, and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/15/01 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Vinh T. Luong
Primary Examiner

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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1. Applicant's election with traverse of the species of Figs. 1-3 in Paper No. 7 is acknowledged. The traversal is on the grounds, *inter alia*, that: (a) Figs. 1-5 all are directed to an embodiment with four tips 15; (b) Figs. 6 and 7 show an embodiment with two tips 45; and (c) thus, the claims designated to correspond to at least Figs. 1-5 (and realistically to Figs. 1-7) should be examined as a unit. This is not found persuasive because:

(a) the species of Figs. 1-3 has the special technical feature, such as, ribs 33 that the species of Figs. 4 and 5 does not have, meanwhile, the species of Figs. 4 and 5 has the special technical feature, such as, a threaded part 68 that the species of Figs. 1-3 does not have. Similarly, the species of Figs. 6 and 7 has the special technical feature, such as, jaws 45; the species of Fig. 8 has the special technical feature, such as, at least two balls 48 and a shearable plate 63. These special technical features are not so linked as to form a single general inventive concept under PCT Rule 13.1; and

(b) applicant apparently concedes that the species of Figs. 1-3 and the species of Figs. 4 and 5 are patentably distinct. Indeed, applicant does not submit evidence or identify such evidence now of record showing these species to be obvious variants or clearly admit on the record that this is the case.

The requirement is, therefore, still deemed proper and is made FINAL.

2. Claims 4 and 12-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.

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Claims 3 and 5 are examined with claims 6-11 because claim 6 is dependent upon claim 5 which in turn is dependent upon claim 3.

3. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

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4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because of: (a) the purported application in its last line; (b) the foot note "Fig. 2"; and (c) the implied phrase "The invention relates to . . ." and the legal phraseology "means." Correction is required. See MPEP § 608.01(b).

6. The listing of references (DE 19515852) in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

7. The information disclosure statement filed on June 15, 2001 which is incorporated into specification (e.g., page 1) fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of

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each foreign patent (DE 19515852); each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed.

8. The drawings are objected to because:

(a) the sectional plane, such as, "A-A" in Fig. 1 should have been changed to "3-3" in order to correspond to Fig. 3; and

(b) each part of the invention, such as, (1) the circular groove in line 15 and the groove in line 25 on page 8 of the specification; and (2) the circular groove arranged on the cylindrical surface of the internal bore 20 in claim 10 should be designated by a referential numeral or character.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

9. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed features, such as, (a) the external profile 18 being disengaged from the matching profile 19 in claim 7; and (b) the circular groove arranged on the cylindrical surface of the internal bore 20 in claim 10 must be shown or the features canceled from the claims. *No new matter should be entered.*

Fig. 2 shows that the profiles 18 and 19 form a straight line, thus, they are not disengaged from each other. The moved or alternate positions, such as, the engaged and disengaged positions of the profiles 18 and 19 are required to be shown in accordance with 37 CFR 1.84(h)(4). In

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addition, Fig. 2 shows the groove 31, however, the groove 31 is not arranged on the cylindrical surface of the internal bore 20.

10. The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

The following order or arrangement is preferred in framing the specification and, except for the reference to the drawings, each of the lettered items should appear in upper case, without underlining or bold type, as section headings. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) Title of the Invention.
- (b) Cross-Reference to Related Applications.
- (c) Statement Regarding Federally Sponsored Research or Development.
- (d) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on compact disc (see 37 CFR 1.52(e)(5)).
- (e) Background of the Invention.
 - 1. Field of the Invention.
 - 2. Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) Brief Summary of the Invention.
- (g) Brief Description of the Several Views of the Drawing(s).
- (h) Detailed Description of the Invention.

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- (i) Claim or Claims (commencing on a separate sheet).
- (j) Abstract of the Disclosure (commencing on a separate sheet).
- (k) Drawings.
- (l) Sequence Listing, if on paper (see 37 CFR 1.821-1.825).

11. The disclosure is objected to because of the following informalities:

(a) the disclosure should have appropriate headings listed above;

(b) each part of the invention, such as, (1) the circular groove in line 15 and the groove in line 25 on page 8 of the specification; and (2) the circular groove arranged on the cylindrical surface of the internal bore 20 in claim 10 should be designated by a referential numeral or character; and

(c) the sectional plane, such as, "A-A" in Fig. 1 should have been changed to "3-3"

in order to correspond to Fig. 3.

Appropriate correction is required.

12. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

13. Claims 2, 3, and 5-11 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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Claim 2 calls for "the locking means (15) are linked in translation with a first (10, 68) of the mechanical elements and comprise at least one profile (18) cooperating with a matching profile (19) integral with a second (11, 67) of the mechanical elements." Similarly, claim 3 calls for "the locking means comprise at least two deformable tips (15) integral with the first (10, 68) of the mechanical elements and each comprising at least one profile (18) cooperating with a matching profile (19) integral with the second (11, 67) mechanical element."

However, Fig. 2 shows that the profiles 18 and 19: (a) form a straight line; and (b) the tips 15 are not connected or formed integrally with the first mechanical element 10. Thus, the profile 18 is not moved with the first mechanical element 10. Consequently, the profiles 18 and 19 are not matched or coupled together as claimed. It is unclear as to how applicant makes/uses: (a) the tips 15 such that the tips 15 are integral or connected with the first mechanical element 10; and (b) the profiles that are matched together as claimed in claims 2 and 3.

Claim 7 calls for "the piston (21) incorporates a second cylindrical seat (29) of a diameter less than that of the cylindrical surface (22) or first seat retaining the tips, said second seat being positioned opposite the bore (20) delimited by the tips (15) when the piston (21) is translated under the action of the gas pressure, thereby allowing the tips (15) to bend in the direction of the piston (21), such bending allowing *the external profile (18) of the tips (15) to be disengaged from its matching profile (19).*" However, applicant's Figs. 1-3 do not show, *inter alia*, (a) the disengaged position of the profiles 18; and (b) and how the profiles 18 and 19 are engaged or disengaged together. It is unclear as to how applicant makes/uses the engaged and disengages profiles as claimed in claim 7.

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Claim 10 calls for “the cylindrical surface (22), or first piston seat retaining the tips incorporates a rib (33) cooperating *with a circular groove arranged on the cylindrical surface of the internal bore (20)*” Nevertheless, Fig. 2 shows the groove 31, however, the groove 31 is not arranged on the cylindrical surface of the internal bore 20. None of the figures show the *circular groove arranged on the cylindrical surface of the internal bore (20)* as claimed. It is unclear as to how applicant makes/uses the circular groove coupled with the rib 33 as claimed.

14. Claims 1-3, 5-11, and 29 are objected to because of the following informalities: the claims contain grammatical or typographical error, e.g., the recitation “the pyrotechnic component, device wherein” in claim 1 should have been “the pyrotechnic component device, wherein.” Appropriate correction is required.

15. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

16. Claims 1-3, 5-11, and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear whether:

(a) a confusing variety of terms, such as, “an axis” and “at least one axis” in lines 1-7 of claim 1 refers to the same or different things. See MPEP 608.01(o). Applicant is respectfully urged to identify each claimed element with reference to the drawings; and

(b) the terms that appear at least twice, such as, “at least one profile” and “a matching profile” in claims 2 and 3 refer to the same or different things. See MPEP 2173.05(o).

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No antecedent basis is seen for the term, e.g., "it" in claim 11.

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

18. Claim 1 and claims 2 and 29, as best understood, are rejected under 35 U.S.C. 102(a) as being anticipated by Camp'372 (DE 196 17 372 C1 cited by applicant and the Search Report of applicant's corresponding PCT application).

Regarding claim 1, Camp'372 teaches a pyrotechnically unlockable mechanical linking device (30) between two mechanical elements (26 and 18) likely to be subjected to tensile and/or compressive forces along an axis, said device comprising at least one pyrotechnic component (50) and at least one locking means (40) linking the two mechanical elements (26 and 18) along at least one axis, said locking means able to be released when the mechanical elements (26 and 18) are subjected to tensile and/or compressive forces along said axis and held in the locking position by retention means (44) that are released by the pressure of gases generated by igniting the pyrotechnic component (50), wherein the retention means comprise a piston (38) able to slide in an axial bore (35) under the effect of the gas pressure generated by the pyrotechnic component (50), the locking means (40) being in contact with the piston (38) at its external cylindrical surface, which ensures their retention in the locking position.

Regarding claim 2, Camp'372's locking means (40) are linked in translation with a first (26) of the mechanical elements (26 and 18) and comprise at least one profile (42) cooperating with a

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matching profile (42) integral with a second (18) of the mechanical elements, the locking means (40) also delimits at least partially the axial bore (35) in which the piston (38) can slide. It is well settled that the term "integral" is not restricted to a one-piece article. The term "integral" is sufficiently broad to embrace constructions united by such means as fastening and welding. See *In re Hotte*, 177 USPQ 326 (CCPA); *In re Clark*, 102 USPQ 241 (CCPA); *In re Dike*, 157 USPQ 581 (CCPA); *In re Kohno*, 157 USPQ 275 (CCPA); and *In re Morris*, 43 USPQ2d 1753, 1757 (CAFC 1997).

Regarding claim 29, Camp'372's first mechanical element (26) is integral with one end of a rod (26) of a master brake cylinder for a vehicle and the second mechanical element (18) is integral with a brake pedal (18).

19. Claims 3 and 5-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first and second paragraphs, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

20. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Hauguel et al. (Figs. 1-12), Camp'845 (Figs. 1-8), Forssell et al. (Figs. 1-6), and Nagasaka et al. (claim 4).

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Luong whose telephone number is (703) 308-3221. The examiner can normally be reached on Monday-Thursday from 8:30 AM EST to 7:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci, can be reached on (703) 308-3668. The fax phone number for this Group is (703) 305-

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7687. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Luong

December 2, 2002

A handwritten signature in black ink, appearing to read 'Vinh T. Luong', with a long horizontal stroke extending to the right.

Vinh T. Luong
Primary Examiner